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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,721

11/29/2006

Ewald Schneider

1-17295

1917

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MARSHALL & MELHORN, LLC
FOUR SEAGATE - EIGHTH FLOOR
TOLEDO, OH 43604

EXAMINER

LEE, DORIS L

ART UNIT

PAPER NUMBER

1764

MAIL DATE

DELIVERY MODE

01/26/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,721	Applicant(s) SCHNEIDER, EWALD	
	Examiner DORIS L. LEE	Art Unit 1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13, 17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 13, 17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. No new grounds of rejection are set forth below. Thus, the following action is made final.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

Claim Rejections - 35 USC § 103

3. **Claims 11, 13, 17 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Schlosser et al (US 6,547,992)** in view of **Sicken et al (EP 584576, please refer to US 5,326,805 for the English language equivalent), Sugino et al (US 5,895,607)** and **Saga et al (US 2005/0113496)**.

The rejection is adequately set forth in paragraph 6 of the Office Action mailed on September 28, 2010 and is incorporated here by reference.

Response to Arguments

4. Based on the applicant's amendments filed on December 28, 2010, the objection set forth in paragraph 2 and the 35 USC 112 2nd paragraph rejection set forth in paragraph 4 of the office action mailed on September 28, 2010 are withdrawn.
5. Applicant's arguments filed December 28, 2010 have been fully considered but they are not persuasive for the reasons set forth below.
6. **Applicant's argument:** Contrary to the examiner's assertion, Example 4 does read on the claimed invention.

Examiner's response: Upon reconsideration of Example 4, the examiner agrees that the amount of the aliphatic polyamide does read on the claimed range, however,

Example 4 still does not read on the claimed invention because the aromatic polyamide that is used (MXD6) is made from m-xylenediamine which is not derived from the components as presently claimed.

7. **Applicant's argument:** The replacement of a portion of the flame retardant by a different polyamide leads to an enhancement of a portion of the flame retardancy as well as enhancement of selected mechanical properties.

Examiner's response: *The argument of unexpected results is not persuasive for a number of reasons. First, it is noted that the aromatic polyamides as currently written require the following 4 components, terephthalic, isophthalic and adipinic acid as well as hexamethylene diamine and none of the data presented show has the required elements of the claimed invention. However, even if the claim was to be amended to read that the aromatic polyamides require terephthalic, isophthalic and/or adipinic acid as well as hexamethylene diamine, the unexpected results argument would still not be persuasive. Again, there is no proper side-by-side comparison between the comparative examples and the inventive examples. Applicant claims that a certain amount of the flame retardant of the comparative examples have been removed and replaced with the partly aromatic polyamide, however, the applicant fails to maintain the same amount of the aliphatic polyamides across all samples, so no proper side-by-side comparison can be made. It is also noted that the data presented is not commensurate in scope with the presently claimed invention, for example, consider component A, which is claimed in an amount from 20-80% whereas the data presented ranges from 40 -57.4 %. Furthermore, component B ranges from 1 to 40%, however, the loading in*

the inventive examples ranges from 12-14 % - would the flame retardancy and improved mechanical properties be apparent even at the very low loading of 1 %?

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DORIS L. LEE whose telephone number is (571)270-3872. The examiner can normally be reached on Monday - Thursday 7:30 am to 5 pm and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571)272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Doris L Lee/
Examiner, Art Unit 1764

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1764